

Special Meeting on Water Agreement Negotiations

Asheville City Council

Present: Mayor Charles R. Worley, Presiding; Vice-Mayor R. Carl Mumpower; Councilwoman Terry M. Bellamy; Councilman Jan B. Davis; Councilman Joseph C. Dunn; Councilwoman Diana Hollis Jones; Councilman Brownie W. Newman; City Manager Gary W. Jackson; City Attorney Robert W. Oast Jr.; and Deputy City Clerk Phyllis Corns

Buncombe County Commissioners

Present: Chairman Nathan Ramsey, Presiding; Vice-Chair David Gantt; Commissioner Bill Stanley; Commissioner Carol Peterson; and Commissioner David Young; and County Manager Wanda Greene

Mayor Worley and Chairman Ramsey opened their respective meetings.

Vice-Chair Gantt said that the goals of the County Commissioners have always been to fix the water system. They want to treat the rate-payers the same and they want to create a board that has minimal political influence. He reviewed the history of the water system, going all the way back to the 1920's. A year ago City Council notified the County that they wanted to terminate the Water Agreement. He said the County and the City have met by letters, met in person, in staff, by managers, and by e-mail. The first offer was February 3, 2005, when the County Commissioners sent a proposal that said they want an independent water authority and we need to have an independent recreation board. They wanted to fix the Civic Center through the recreation board. On March 14, 2005, the County held a public hearing and a majority of City Council attended and told them what they thought about the water agreement. On March 27, 2005, City Council responded to their offer and basically rejected it and said the County's facts were incorrect. On April 27, 2005, the County and the City spent 16 hours in mediation. There were 3 main County proposals. We made an offer of \$9.6 Million to the City and we proposed to take over the Civic Center and repair it. That offer was rejected. After mediation there have been many proposals back and forth between individual members of each board. The County received a City Council proposal on May 10, 2005, that water be a City-run department and require the County to pay \$3.5 Million. Then on May 24, 2005, there was a County offer to do consolidated water and sewer authority which was indirectly enforced by the Chamber of Commerce. We received a letter from the City on June 7, 2005, which said City Council was disappointed with our proposal but did not give a counter-offer. On June 8, 2005, Councilman Dunn made a proposal that suggested a City-run water department, no differential rates and money to be reinvested in the water system. On June 23, 2005, the County unanimously accepted that offer, however, they still felt an independent board is the best way. He said that presently around 30% of the water is lost. Based on a study, \$350 Million of repairs and maintenance will be required over the next 30 years. According to a 2004 audit, there is \$12.9 Million sitting in the account of the Water Authority and \$11.4 Million of bond money that has not been spent. We have some of the highest rates and have been asked to raise the rates five different times in the past couple years. We have passed some and some we have not. The County has two proposals on the table. One proposal is to consolidate the water and sewer. We think it will save the rate-payers money and we think that water is a regional asset and the financial responsibility for fixing it should be a regional responsibility. We feel we could save money with N.C. Dept. of Transportation non-betterment and betterment repairs. The other proposal is Councilman Dunn's proposal. We will support either one of the two proposals. We hope we can work an agreement, even at this late hour.

Mayor Worley agreed that we want to fix the water system. That has been a commitment to the entire Council. We want to be able to move ourselves into a position as quickly as possible to return all of the water revenues to do just that. We also want to treat the rate-payers the same,

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however, we differ in how we want to go about that. We recognize that there is a cost of service differential between the more dense urban area and the much-less dense rural area – it does cost more to provide service and perform the maintenance on a per customer basis in the rural areas. We want a system that is accountable to the public and we think the best way to provide accountability is through the governing body board that is controlling and making policy decisions that respond to the will of the people and that can be replaced if they don't respond to the will of the people. The City gave notice of termination a year ago and the City had every right to do so. The water agreement is a contract which has provisions on how the contract can be terminated and the City followed that contract. He felt what disappointed City Council was how the "playing field," in terms of negotiating and dealing with the termination of that contract, has gone far beyond the bounds, with introduction, with the County Commissioner's assistance, of the legislation that seeks to go well beyond maintaining the status quo. That has clearly made these negotiations much more difficult and probably has prevented us from reaching an agreement long before now. One of the reasons set forth for that legislation was to bring us to the table. There has been a lot of allegations that we have not been at the table and not been negotiating. He put together a timeline, which started on July 13, 2004. A lot of meetings, which City Council and County Commissioners agreed to informally, took place between our staffs. Those meetings took place August 6, August 7, August 12,

August 24, 2005, August 26, etc. There are almost four pages of dates when we have had various types of meetings, negotiations, and proposals back and forth until September and then picking up again in early December and January. The hiatus between September and November was at the County Commissioner's request, because the Commissioners were facing an election. When you look through the timeline, it is obvious that the City Council, within the parameters that it has set forth, had a couple of main goals in giving notice of termination. One was to achieve a more equitable rate structure and the other was to take control of the water line extension policy in terms of growth and in terms of the City's own growth. Secondly, the City wants to provide a little more accountability to fix a system that was convoluted in the way it was operating and it was not serving our needs. Those were our main goals. Within the parameter of our main goals, one, two or three members of Council or Commissioners came up with proposals. When you look at those over the course of the last year, certainly it is City Council's position that the City has bent over backwards to find every conceivable combination of things where we might make concessions and get to achieve some of our goals. It has not been for lack of effort on our part. We are continuing in our efforts to find a solution with the right combination, that will give us some of things we need with limitations and restrictions and to satisfy some of the County's needs. Our effort has been to find a solution as well. In any controversy, solutions are found with compromise and that is what we are trying to do and we hope we can continue and find that common ground with the County Commissioners.

Commissioner Peterson, member of the Regional Water Authority, spoke of the highly qualified appointees on the Water Authority. However, the way the organization is structured, the Water Authority has little authority. She explained why the Commissioners recommend the model of the Metropolitan Sewerage District ("MSD") be adopted.

Councilwoman Bellamy felt this was the time to not just state our positions, but to negotiate.

There was a brief discussion about the recreational facilities; however, Commissioner Young felt that if we are able to give the City and County Manager time they would be able to come up with a compromise. Commissioner Peterson felt it was very important that we realize the water agreement has so many facets she that didn't think the Commissioners are in a position today to take anything off the table because they are looking at the total picture.

Councilman Davis spoke in support in giving Asheville the opportunity to plan for future growth at a natural rate as other cities in North Carolina are allowed to do.

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Commissioner Young explained why he supported the excellent water/sewer authority model in Orange County and Chapel Hill.

Councilman Dunn said that his proposal consists of three basic parts: (1) the City runs the water system; (2) no deferential rates; and (3) we put back as much money back into the water system as we can. He felt we needed to focus on water and work out the issues on the recreation facilities and the Civic Center at a later date.

Chairman Ramsey felt understands that if the County wants an independent authority then the County has to give up some things that are very important to them. Same thing with the City. If the City wants to run the water system as a City department, the City has to make some large concessions to accomplish that for us to reach an agreement. He feels the independent water/sewer authority would be very beneficial to the City taxpayers. The focus on deferential rates is unnecessary and not healthy for the City.

Upon inquiry of Councilman Newman, Chairman Ramsey confirmed that all the water lines outside the City of Asheville will be maintained by the County.

Councilman Newman said that Asheville just wants to be treated like all the other cities in North Carolina that operate municipal water systems. He did think there are some merits to the independent water authority idea, the N.C. Dept. of Transportation line replacement cost issue being probably being the most compelling one. He wished the County had put forth a proposal for an independent system that actually addressed enough of the City's concerns that City Council would have given serious consideration to. He also wished the County would have been more open to a City-run system. He supported the idea of solving the recreational piece of this puzzle today. He felt that if we gave ourselves additional time maybe the City, County and legislators could work together to solve some difficult issues.

Vice-Mayor Mumpower explained why he felt that this meeting, like the entire process is a charade. Our legislators' involvement has skewed our ability to create a fair and reasonable negotiation. We have further impaired ourselves by having closed negotiations. Every proposal that has come before City Council so far that has been seriously considered has involved Asheville taking a much larger step than the County. There is no way that the City Council could surrender the assets of the City without fair compensation or accept an agreement that doesn't represent a middle ground blank compromise. We can't even agree on the

basic facts. How do you negotiate to a good point if you can't agree on basic facts, like what is the value of the water system? He would be in support of a 30-day delay.

Councilwoman Jones felt it was not fair that the citizens of Asheville pay the highest water rates in North Carolina. We may not be able to fix that in five years, but hopefully will be able to in 10-15 years. She suggested negotiations continue later this evening after both bodies hold their respective formal meetings. She felt hoped that at least the City and Council will agree on the recreation facilities piece today and get those out of the water agreement negotiations.

Chairman Ramsey said that from his perspective he felt the City should operate the Nature Center and Recreation Park.

Mayor Worley said that the nothing would prevent the City and County to negotiate an agreement after July 1, other than perhaps the passage of the two Sullivan Acts. Mayor Worley asked the County if they would be willing to continue negotiations.

Commissioner Gantt said the General Assembly, at the County's request, got involved and he felt that was a good thing for the people of Buncombe County because it started the two governing bodies to start talking. He would not be in favor of asking the General Assembly to

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delay action on the two Sullivan Acts because he thinks that is what is best for the people of Buncombe County.

Chairman Ramsey said that if Councilman Dunn's proposal is adopted and we do it for a term of 35 years, he personally be willing to request that the General Assembly, if Sullivan Acts II and III pass, withdraw those two local bills.

Mayor Worley said there is some room in Councilman Dunn's proposal in some of the collateral issues and some willingness to give on Council, but there needs to be some willingness to give on the Commissioner's part as well. He hoped these discussions can continue in order to reach an agreement.

There was a brief discussion amongst the Council and Commissioners about what will happen if the Sullivan Act bills are adopted.

At 4:20 p.m., Mayor Worley and Chairman Ramsey adjourned their respective meetings.

CITY CLERK

MAYOR